

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS GENERAL AND INHERENT JURISDICTION

INDIAN ADOPTION PETITION NO. 1 OF 2024

WITH

JUDGE'S ORDER NO. 1 OF 2024

Maharashtra State Women's Council
Adoption Group at Maharashtra State
Women's Council ...Petitioner

And

Aarti Atrinath Rane ...Co-Petitioner/
Proposed Adopter

Ms. Dipal Sanjanwala Mehta for the Petitioners.

Mr. O. Hareendran, Scrutiny Officer present.

Mr. D.S. Gurav, Chamber Registrar present.

CORAM : R.I. CHAGLA J

DATE : 4 January 2024

ORDER :

1. By this Indian Adoption Petition, the Co-Petitioner/Proposed Adopter has sought adoption of the male minor Rudra (**"the said male minor"**). The said male minor was born on 24th July 2023.

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2. The biological mother had surrendered the said minor child before the Child Welfare Committee(CWC), Mumbai City-II on 4th August 2023 and custody was given to the Petitioner institution on the same day as per the order of the said CWC dated 4th August 2023 under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (“**the said Act**”). The CWC Admission order is on record at page No. 20 to the Petition.

3. After making due inquiry under Section 38 of the said Act, the CWC, Mumbai City-I declared the said male minor “Legally Free for Adoption” as on 9th October 2023. The Free for Adoption order is on record at page Nos. 21-22 to the Petition.

4. The Prospective Adoptive Parent is a single mother (divorcee) of Indian national residing at Thane aged about 46 years. She was married earlier on 16th December 2006 and divorced on 20th June 2009 and has no biological children. The Divorce Decree is on record at page Nos. 36-42 to the Petition.

5. The Motivation Letter of the proposed Adopter is on record at Page No. 26 to the Petition.

6. Affidavit by the Chief Functionary of the Specialized Adoption Agency (Petitioner) in support of the adoption of the said male minor child Rudra is on record at page Nos. 139-145 to the Petition.

7. The Minutes of Adoption Committee meeting held on 16th November 2023 is on record at page Nos. 17-19-c to the Petition. The committee has decided that the Prospective Adoptive Parent is suitable to adopt the said male minor child.

8. The Medical Report of the prospective adoptive parent dated 25th August 2023 states that “The health of the prospective adoptive parent does not disqualify her in parenting a child in anyway”. Her HIV and HBsAg test report certifies the case as Non Reactive. The said Report is on record at page Nos. 28-35 to the Petition.

9. The Prospective Adoptive Parent is working as a Deputy General Manager-Finance with Medusind Solutions India Private Limited, Mumbai since 10th November 2021 and her monthly (October-2023) gross salary is Rs. 3,65,165/-. Her Pay slips, Income

Tax Returns and Form No. 16 are on record at page Nos. 55-67 to the Petition.

10. The proof of residence, copy of PAN card and other supportive financial documents are on record at page Nos. 45, 54 and 68-82 to the Petition.

11. Childcare arrangement plan undertaking of the Adoptive mother and her mother is on record at Page No. 83-85 to the Petition.

12. The Home Study Report Part I Self Assessment dated 10th October 2020 and 14th September 2023 by the Prospective Adoptive Parent are on record at page Nos. 87-96 and 103-111 to the Petition.

13. Ms. Mehta, learned Counsel for the Petitioner has tendered the Home Study Report Part I dated 14th September 2023 signed by the Prospective Adoptive Parent, which is taken on record and marked “X” for identification.

14. The Home Study Report Part II: Assessment Report of the authorities of “Adhar” Pune dated 10th October 2020 and the updated Report dated 14th September 2023 of the authorities of “Janani Ashish Charitable Trust” Dombivli, Dist. Thane have found the prospective adoptive parent suitable for adopting a child. The said Home study Reports are at page Nos. 97-102 and 112-119 to the Petition.

15. The child security undertaking dated 18th November 2023 given by the Prospective Adoptive Mother’s sister and brother-in-law residing at Vasai, Dist. Palghar, Maharashtra to look after the said male minor in case of any mishap to the Prospective Adoptive Parent is on record at page Nos. 136-138 to the Petition.

16. The Pre-adoption foster care undertaking dated 20th November 2023 is on record at page Nos. 49-51 to the Petition.

17. The Joint Declaration of consent & willingness to adopt by the Prospective Adoptive Parent states that she is willing to be appointed and declared as the Adoptive Parent of the said male

minor. The Prospective Adoptive Parent has further agreed and undertaken to the Petitioner institution and to the Court that she will not give the said male minor child in further adoption to anyone residing in or outside India. The said declaration is on record at page Nos. 46-48 to the Petition.

18. The Medical Examination of the said male minor dated 14th October 2023 states that “Overall Observation of the child: A normal, healthy infant.” The Proposed Adopter has countersigned the said report, which is on record at page Nos. 128-133 to the Petition.

19. The HIV report of the said male minor dated 26th September 2023 certifies the case as Non Reactive. This Report is on record at page No. 134 to the Petition.

20. The Post Card Size Photograph of the said male minor is on record at page No. 25 to the Petition.

21. As regards the change of name, the Proposed Adoptive Parent desires that the said male minor ‘Rudra’ be renamed

as “Rudra Aarti Rane”.

22. The undertaking dated 14th November 2023 given by the Specialized Adoption Agency “Janani Ashish Charitable Trust” Dombivli, Dist. Thane for furnishing post adoption follow-up reports is on record at page No. 135 to the Petition.

23. The Petitioner institution’s recognition from the Women & Child Development, Maharashtra State to place children in adoption is valid up to 5th May 2025.

24. Mr. O. Hareendran, Scrutiny Officer has tendered Report/Representation of Indian Council of Social Welfare dated 22nd December 2023, which is taken on record and marked “Y” for identification.

25. Having considered the documents placed on record as well as the Report of Mr. O. Hareendran, Scrutiny Officer marked Y, I am of the view that it would be in the interest of the said male minor, if he is adopted by the Prospective Adoptive Parent.

26. It is relevant to note here that in the case of **Nisha Pradeep Pandya alias Nisha Amit Gor and Anr. Vs. Union of India and Ors.**,¹ concerning challenge raised to the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the Division Bench of this Court on 10th January, 2023 passed an interim order. The relevant portion of said order of Division Bench reads as follows :

“8. In the meantime, there will be an ad-interim order only until the next date in terms of prayer clauses (d), (e) and (f) of the petition which reads as follows:

(d) Pending the final hearing and disposal of the present Petition, the Hon’ble Court may be pleased to stay the effect, implementation and purport of the letter dated 30th September, 2022 issued by Respondent No.2;

(e) Pending the final hearing and disposal of the present Petition, the Hon’ble Court may be pleased to direct the Respondents not to transfer pending adoption matters before the District Magistrates for adjudication.

(f) Pending the final hearing and disposal of the present Petition, the Hon’ble Court may be pleased to

¹ Writ Petition No.1085/2023 (Writ Petition (L) No.32065/2022)

direct the Hon'ble Courts to continue with the adjudication of the adoption matters that are pending on their record and file.

9. *Additionally, the safer and more prudent course of action would be to allow all matters to be placed before the learned Single Judge of this Court who is assigned those matters. Those orders may be continued to be passed until the challenge is finally decided."*

27. Hence, it is clear that this Court can consider and dispose of the present Petition.

28. In these circumstances, the Petition is allowed in terms of prayer clauses (a) to (d) of the Petition, which read thus:-

"(a) This Hon'ble Court may be pleased to appoint the Co-Petitioner, Aarti Atrinath Rane as the adoptive mother/parent of the male minor, Rudra @ Rudra Aarti Rane, in the care of the Maharashtra State Women's Council Adoption Group at Maharashtra State Women's Council Asha Sadan Balgruh, Asha Sadan Marg, Umderkhadi, Mumbai-400 009,

(b) That the Co-Petitioner be allowed to change the name

of the minor from 'Rudra' to 'Rudra Aarti Rane',

- (c) That the Co-Petitioner may be granted leave to remove the aforesaid child from the jurisdiction of this Hon'ble Court and to take the minor alongwith her i.e. to the Co-Petitioner's family wherever she may reside or her work may require her to,*
- (d) That the concern Municipality/the Birth Certificate Issuing Authority may be directed to issue Birth Certificate for the said minor within five working days from the date of application of the Petitioner, as per the provisions of regulation 36 of the Adoption Regulations."*

29. There is an undertaking in the Judge's Order that Adoptive Parent will create a fixed deposit for an amount of Rs. 2,00,000/- (Rupees Two Lakhs only) in the name of the Adopted Child. Further there is an undertaking not to withdraw the said amount until the Adopted child attains majority. The Adoptive Parent has agreed to handover investment receipts to the Adopted child on his becoming a major. This undertaking is accepted as an undertaking to this Court.

30. Judge's Order is accepted and signed separately.

31. The Indian Adoption Petition is accordingly, disposed of. There shall be no order as to costs.

[R.I. CHAGLA J.]